

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 RANDY BARAO,

4 Petitioner

5 v.

6 STATE OF NEVADA, *et al.*,

7 Respondents

Case No.: 2:22-cv-01954-JAD-NJK

**Order Directing Service of the Petition**

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9 Petitioner Randy Barao has submitted a *pro se* 28 U.S.C. § 2254 petition for writ of  
10 habeas corpus and has paid the filing fee.<sup>1</sup> Having completed a preliminary review of the petition  
11 under Habeas Rule 4, I direct the Clerk of Court to docket it<sup>2</sup> and serve it on respondents.

12 IT IS THEREFORE ORDERED that the Clerk is directed to:

- 13 • **FILE and ELECTRONICALLY SERVE** the petition [ECF No. 1-1] on the  
14 respondents; and  
15 • ADD Aaron D. Ford, Nevada Attorney General, as counsel for respondents and  
16 provide respondents an electronic copy of all items previously filed in this case  
17 by regenerating the Notice of Electronic Filing to the office of the AG only.

18 IT IS FURTHER ORDERED that respondents must file a response to the petition within  
19 **90 days of service of the petition. Petitioner will then have 45 days from service of the**  
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22 <sup>1</sup> ECF Nos. 1-1, 3.


23 <sup>2</sup> Because a petition for federal habeas corpus should include all claims for relief of which  
petitioner is aware, failure to include such a claim in a petition may result in it being forever  
barred. *See* 28 U.S.C. §2244(b) (successive petitions).

1 **answer, motion to dismiss, or other response to file a reply or opposition.** Any other motions  
2 will be subject to the normal briefing schedule under the local rules.

3 Any response to the petition must comport with Habeas Rule 5. Additionally:

- 4 1. Any procedural defenses raised by respondents in this case must be raised together in a  
5 single, consolidated motion to dismiss. In other words, the court does not wish to address  
6 any procedural defenses raised herein either in seriatum fashion in multiple successive  
7 motions to dismiss or embedded in the answer. Procedural defenses omitted from the  
8 motion to dismiss will be subject to potential waiver.
  - 9 2. Respondents must not file a response in this case that consolidates their procedural  
10 defenses, if any, with their response on the merits, except under 28 U.S.C. § 2254(b)(2)  
11 as to any unexhausted claims clearly lacking merit. If respondents do seek dismissal of  
12 unexhausted claims under § 2254(b)(2): (a) they must do so within the single motion to  
13 dismiss, not in the answer, and (b) they must specifically direct their argument to the  
14 standard for dismissal under § 2254(b)(2) set forth in *Cassett v. Stewart*, 406 F.3d 614,  
15 623–24 (9th Cir. 2005). In short, no procedural defenses, including exhaustion, should be  
16 included with the merits in an answer. All procedural defenses, including exhaustion,  
17 must instead be raised by motion to dismiss.
  - 18 3. In any answer filed on the merits, respondents must specifically cite to and address the  
19 applicable state-court written decision and state-court record materials, if any, regarding  
20 each claim within the response as to that claim.
  - 21 4. Respondents must file the state-court exhibits relevant to their response to the petition in  
22 chronological order.
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- 1 5. All state court records and exhibits must be filed in accordance with LR IA 10-3 and LR  
2 IC 2-2 and include a separate index identifying each exhibit by number or letter. The  
3 index must be filed in CM/ECF's document upload screen as the base document to  
4 receive the base docket number (*e.g.*, ECF No. 10). Each exhibit must then be filed as an  
5 "attachment" to the base document—the index—to receive a sequenced sub-docket  
6 number (*e.g.*, Exhibit A (ECF No. 10-1), Exhibit B (ECF No. 10-2), Exhibit C (ECF  
7 No. 10-3), and so forth). If the exhibits will span more than one filing, the base  
8 document in each successive filing must be either a copy of the index or volume cover  
9 page. *See* LR IC 2-2(a)(3)(A).
- 10 6. The parties must send courtesy copies of **any responsive pleading or motion and all**  
11 **INDICES OF EXHIBITS ONLY** to the Reno Division of this court. Courtesy copies  
12 must be mailed to the Clerk of Court, 400 S. Virginia St., Reno, NV, 89501, and directed  
13 to the attention of "Staff Attorney" on the outside of the mailing address label. **No**  
14 **further courtesy copies are required unless and until requested by the court.**

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17 U.S. District Judge Jennifer A. Dorsey  
18 January 6, 2023  
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